

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**IGZA M. PLANAS**

Claimant

VS.

**CONAGRA FOODS, INC.**

Respondent,  
Self-Insured

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Docket No. 1,009,333

**ORDER**

Claimant appealed the August 28, 2003 preliminary hearing Order entered by Administrative Law Judge Bryce D. Benedict.

**ISSUES**

Claimant, Igza M. Planas, alleges she sustained bilateral upper extremity injuries due to the repetitive work activities she performed for the employer, ConAgra Foods, Inc. Claimant worked for ConAgra from May 1998 through October 4, 2002.

In the August 28, 2003 Order, Judge Benedict denied claimant's request for benefits after finding that claimant had sustained an intervening accident. The Order stated, in part:

**The evidence establishes the Claimant has suffered an intervening accident.**

**The Claimant was experiencing minimal symptoms when she quit her employment. Her symptoms since then have greatly increased, to such a degree she had to quit other employment, and she now exhibits positive Phalen's and Tinel's signs.**

Claimant contends Judge Benedict erred. Claimant argues she has proven through her testimony and Dr. Sergio Delgado's medical opinions that her present need for medical treatment is the direct result of the repetitive work activities she performed working for ConAgra. Moreover, claimant argues the work that she performed after leaving ConAgra's employment did not cause a separate intervening accident or additional permanent injuries to her upper extremities. Instead, claimant argues the repetitive work activity that she performed after leaving ConAgra's employ caused only a temporary exacerbation in her

symptoms. Accordingly, claimant requests this Board to reverse the August 28, 2003 Order and to appoint Dr. Delgado as claimant's authorized treating physician.

Conversely, ConAgra contends the August 28, 2003 Order should be affirmed. ConAgra argues claimant re-injured her upper extremities after leaving its employ in October 2002 while working for two other employers. In its brief to the Board, ConAgra contends "it would not be lawful to require respondent to provide workers compensation benefits for such re-injury."

The only question before the Board on this appeal is whether claimant has proven her present need for medical treatment was caused by the work that she performed for ConAgra.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record compiled to date and the parties' arguments, the Board finds and concludes:

Claimant worked for the food processor ConAgra from approximately May 1998 through October 4, 2002. At different times during her tenure with ConAgra, claimant worked in both the stuffing department and packaging department. The work required claimant to repetitively use her hands and upper extremities.

In approximately 2001, claimant developed symptoms in her upper extremities. Claimant reported the symptoms to a supervisor, who suggested that the symptoms might spontaneously resolve. In June 2002, claimant's upper extremity symptoms had worsened to the point that she requested an incident report be filed.

Claimant then saw a physician assistant who diagnosed bilateral tendinitis and prescribed splints and physical therapy. The medical treatment, coupled with modified job duties, helped reduce the pain that claimant was having in both wrists and the right elbow. On October 2, 2002, the physician assistant noted that claimant was continuing to experience symptoms in her fingers and hands but her bilateral wrist tendinitis was healed. Moreover, at the time he discharged claimant, the physician assistant recommended that claimant continue wearing her braces, continue taking prescription medications and apply for other work with a different employer.

On October 4, 2002, claimant left ConAgra's employ. Claimant testified that she left ConAgra as the pain in her hands was causing her anxiety, she had diarrhea and she felt she was under a lot of stress.

Sometime in November 2002, claimant began working for Western Wireless where she worked for three months answering a telephone and using a computer. Claimant wore her braces at work. She does not believe that working for Western Wireless changed her condition or caused any new injury to her upper extremities. But claimant also testified she left that job because of anxiety and her hands worsening.

Within days after leaving Western Wireless, claimant began working for a school district in Junction City, Kansas, as a hall monitor. In addition to watching schoolchildren in the halls, claimant cleaned six or seven tables with a wet rag three times during a four- or five-hour period. Moreover, approximately once a week claimant also helped in the kitchen when needed. When claimant testified at the August 2003 preliminary hearing, she had last worked at the school district on May 30, 2003. Claimant does not believe that she sustained additional injury to her hands from that job.

In addition to the above jobs, claimant also worked two jobs through a temporary employment agency. Claimant worked in a company's personnel department, until the plant burned down. And during the first part of June 2003, for approximately eight days claimant worked a job placing stickers on shoe boxes, which she was unable to continue performing due to the problems in using her hands. That was the last job that claimant performed.

On June 5, 2003, at her attorney's request, claimant saw Dr. Sergio Delgado. Claimant's history as described by the doctor in his June 6, 2003 medical report is somewhat different from claimant's testimony as Dr. Delgado notes that claimant's work at Western Wireless and the school district required repetitive use of both upper extremities that caused increasing symptoms in both hands. In his report, the doctor concluded:

She [claimant] has significant clinical findings suggestive of bilateral carpal tunnel syndrome of a moderate nature involving both upper extremities, probably worse on the right side. She has equivocal signs of ulnar nerve entrapment neuropathy at the level of the elbow or at the wrist involving both hands. She does not show any systemic disease complaints which may explain her symptoms. In addition, she has no previous history of similar complaints prior to the work at ConAgra. Her symptoms have increased on attempting additional repetitive work activities using both upper extremities since her termination of work at ConAgra. **The period of time that she has worked and the fact that she has previous history of injury suggests that the symptoms in relation to her subsequent work activities are the result of her injury sustained and claimed while working for ConAgra**

**Foods, Inc.** Additionally, she has evidence of a right lateral epicondylitis.  
(Emphasis added.)<sup>1</sup>

Claimant argues that Dr. Delgado's medical opinion establishes that claimant's work after leaving ConAgra's employment did not cause any additional injury to her upper extremities and, therefore, the Judge erred in finding an intervening or subsequent accident.

Considering the record compiled to date, the Board finds that claimant has failed to prove that it is more probably true than not that her present need for medical treatment is related to the work that she performed for ConAgra. It is unclear whether Dr. Delgado has an expert opinion regarding the cause of claimant's present need for medical treatment, and, if so, what that opinion might be. Accordingly, at this juncture of the claim, the Board finds no reason to disturb the Judge's findings and conclusions.

**WHEREFORE**, the Board affirms the August 28, 2003 Order.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of October 2003.

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BOARD MEMBER

c: Jeff K. Cooper, Attorney for Claimant  
Mark E. Kolich, Attorney for Respondent  
Bryce D. Benedict, Administrative Law Judge  
Paula S. Greathouse, Workers Compensation Director

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<sup>1</sup> See P.H. Trans., Cl. Ex. 1.